

City of Kerrville Planning & Zoning Commission Agenda

Thursday, December 7, 2006, 4:30 p.m.*

City Hall City Council Chambers, 800 Junction Highway, Kerrville, TX

The meeting place has wheelchair accessibility and available accessible parking spaces. Please call the City of Kerrville Planning Division at (830) 792-8354 forty-eight hours (48) before the meeting to request accommodations.

1. ***4:15 p.m. Pre-Meeting Session, City Council Chambers**

Review of today's agenda items between Staff and the Commission. No action will be taken and there is to be no discussion between the Commission and the applicant(s) or other audience.

2. **4:30 p.m. Call to Order**

Chairperson calls the meeting to order; roll call.

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3. **Visitor/Citizens' Forum**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

4. **Consent Agenda**

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

4A. **Approve the minutes from the meeting of November 16, 2006.**

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5. **Public Hearing/Consideration**

5A. **Conditional Use Permit (CUP) Request** – Consideration of a recommendation to the City Council of a request for a CUP to allow a Vehicle Sales Facility -Used use on 0.38 acres at 2404 Memorial Blvd. Zoned: E-31. Applicant: Tony Roberts (R & D Real Estate, Ltd.). (File #2006-10)

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5B. **Conditional Use Permit (CUP) Request** – Consideration of a recommendation to the City Council of a request for a CUP to allow a retail Trade use on 0.653 acres at 3000 Memorial Blvd. Zoned: E-31. Applicant: Edith Mandry. (File #2006-34)

6. **Discussion and Consideration**

6A. **Real Estate Acquisition and Disposition Policy** – Consideration of a recommendation to the City Council of the City's Real Estate Acquisition and Disposition Policy. Applicant: City of Kerrville.

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7. **Staff Reports**

7A. Future Agenda Items. Applicant: Senior Planner

8. **Adjourn** - The next scheduled meeting is Thursday, December 21, 2006

**BUSINESS OF THE PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**

AGENDA ITEM: 4A **FOR AGENDA OF:** December 7, 2006
DESCRIPTION: Approval of the minutes from the meeting of November 16, 2006
APPLICANT(S): Planning and Zoning Commission Secretary
ATTACHMENT(S): Minutes

The Commission's Secretary recommends approval of the proposed minutes.

On November 16, 2006 the Planning and Zoning Commission pre-meeting was called to order at 4:22 p.m. in the City Hall Council Chambers, 800 Junction Highway.

MEMBERS PRESENT:

Mack Hamilton, Chairperson
Jim Kessler, Commissioner
Bruce Motheral, Commissioner
Andy Phillips, Commissioner
Carl Meek, Ex-Officio City Councilperson

MEMBERS ABSENT:

George Hager, Vice Chairperson
Paul Hofmann, Ex-Officio City Manager

STAFF PRESENT:

Trina Ramirez, Planning and Zoning Commission Secretary
Gordon Browning, Senior Planner

DISCUSSION OF AGENDA ITEMS FOR THE REGULAR MEETING:

The Commissioners and City Planner discussed the items on the agenda.

The pre-meeting adjourned at 4:25 p.m. No action was taken.

1. CALL TO ORDER:

Chairperson Mack Hamilton, called the Kerrville Planning and Zoning Commission regular meeting to order at 4:30 p.m. on November 16, 2006 in the City Hall Council Chambers, 800 Junction Highway.

2. VISITOR/CITIZENS FORUM:

No person spoke.

3. CONSENT AGENDA:

3A. Approval of the minutes from the meeting of November 2, 2006.

Cmr. Kessler moved for approval of the consent agenda; motion was seconded by Cmr. motheral and passed 4-0.

4. Public Hearing/Consideration

4A. Conditional Use Permit (CUP) Request – Consideration of a recommendation to the City Council of a request for a CUP to allow a Vehicle Sales use on 0.392 acres at 210 – 212 G Street W. Zoned: S-33. Applicant: Ted Michalak. (File #2006-32)

Cmr. Hamilton opened the public hearing at 4:35 p.m. No person spoke. Cmr. Hamilton Closed the public hearing at 4:36 p.m.

The Commission and Gordon Browning discussed the screening requirements for the rear part of the building and landscaping.

Cmr. Phillips moved to recommend to the City Council approval of the C.U.P; subject to a solid wooden fence be built along the back property line; motion was seconded by Cmr. Kessler and passed 4-0.

4B. Replat: Comanche Trace, Phase 9 – A replat of Lots 41 and 42, Block A, a 1.015 acre tract located at the north corner of Comanche Trace Drive and Oak Park Drive. Zoned: R-1. Applicant: Grogan Surveying. (File #2006-33)

Cmr. Hamilton opened the public hearing at 4:42 p.m. Cmr. Hamilton.

Mike Grogan, the applicant, discussed concern regarding replats being brought to the Planning and Zoning Commission.

Cmr. Hamilton Closed the public hearing at 4:35 p.m.

Cmr. Motheral moved to recommend the replat; motion was seconded by Cmr. Phillips and passed 4-0.

5. Staff Report

5A. Future agenda items. Applicant: Senior Planner.

Mr. Browning informed the Commission of items for future agenda.

6. Adjournment The next regularly scheduled meeting is December 2, 2006.

The meeting adjourned at 4:50 p.m.

ATTEST:

Mack Hamilton, Chairperson

Trina Ramirez, Recording Secretary

**BUSINESS OF THE PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**

AGENDA ITEM: 5A **FOR AGENDA OF:** December 7, 2006

DESCRIPTION: **Conditional Use Permit (CUP) Request:** Consideration of a recommendation to the City Council for a CUP to allow a Vehicle Sales Facility –Used on 0.38 acres at 2404 Memorial Blvd.

APPLICANT(S): Tony Roberts (R&D Real Estate, Ltd.)

ATTACHMENT(S): Locator Map, Applicant Submittal, Draft Resolution

Project Timeline

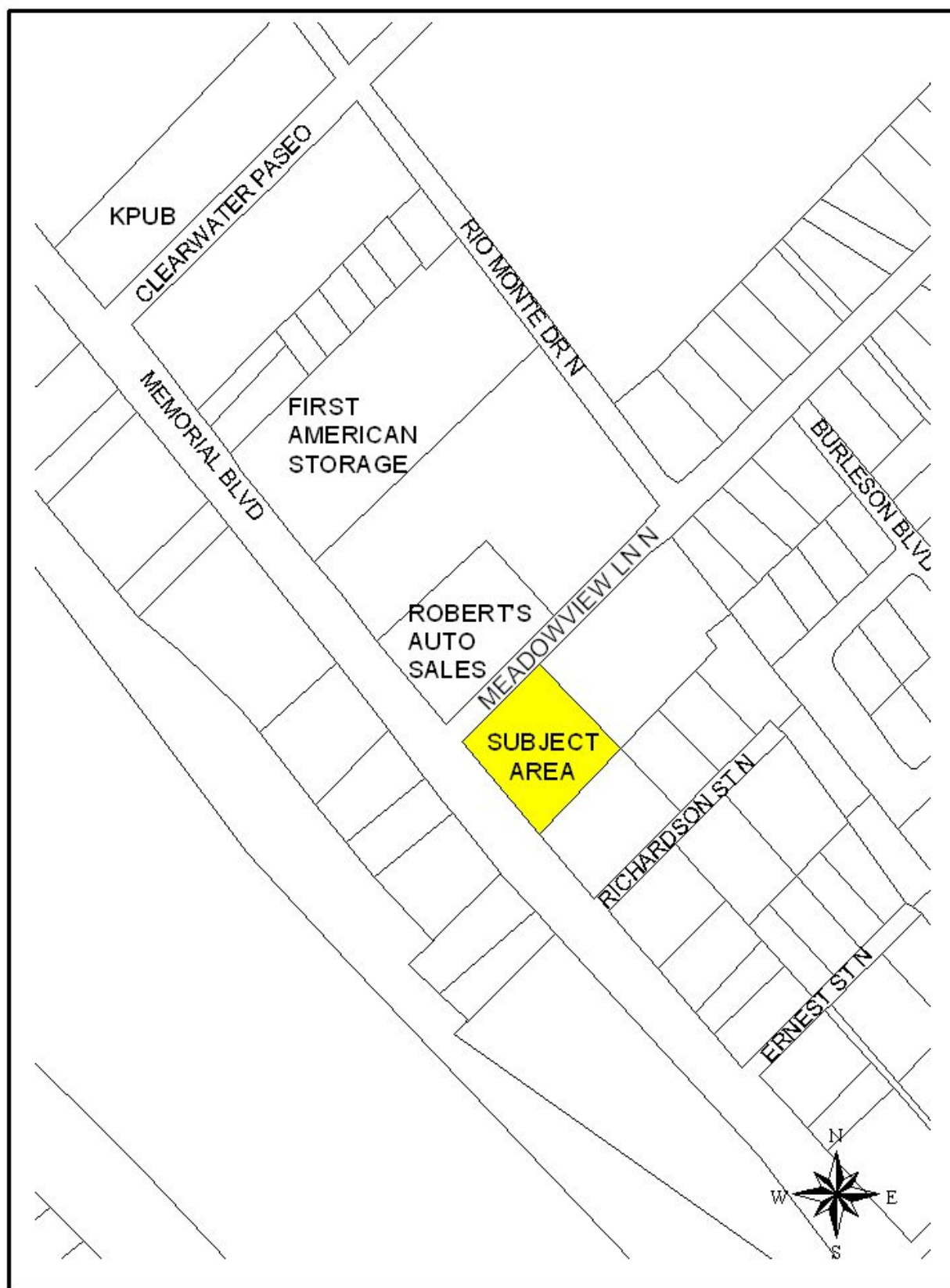
- April 12, 2006 – Application for CUP submitted to City.
- October 11, 2006 – Application for CUP re-submitted to City.
- November 13, 2006 – Development Review Committee (DRC) process completed.
- November 17, 2006 – In accordance with statute and local law, notice of public hearing published in Kerr Daily Times and mailed to all property owners within 200 feet of subject property.
- **December 7, 2006 – Public hearing before Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.**
- January 9, 2007 – Public hearing before the City Council and consideration of a resolution approving the CUP.

CUP Process/Summary

- Per the Zoning Code, the “Vehicle Sales Facility – Used” in the E-31 zone requires approval of a CUP by the City Council. Vehicle sales is defined as a business primarily engaged in the sale or rental of automobiles, pickups, etc.
- The purpose of District 31-E is to promote a mix of contractor businesses, business services, and personal services, all of which should be developed in a manner that enhances the quality of the Guadalupe River frontage, located across the highway from this district, and Schreiner College, which is on the west end of the district. Retail trade should be limited and constructed with a residential appearance.
- This application is a request to expand the vehicle sales lot of Roberts Auto Sales located at 2410 Memorial Blvd. No new offices are contemplated at this location.
- The tract under consideration, 2404 Memorial Blvd., is currently undeveloped.
- An access/driveway permit from the Texas Department of Transportation (TxDOT) will be required prior to construction.
- Per the Zoning Code, the P&Z and/or the City Council may impose additional requirements and conditions of approval as are needed to ensure that a use requested by a CUP is compatible and complementary to adjacent properties.

RECOMMENDED ACTION

1. Open the public hearing and receive comments; and
2. Recommend to the City Council approval of the CUP subject to the standards outlined in the resolution.



**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. -2006**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATELY 0.38 ACRE TRACT OUT OF THE SAMUEL WALLACE SURVEY NO. 113, ABSTRACT NO. 347, BEING PART OF TRACT NUMBER TWO, WITHIN THE CITY OF KERRVILLE, TEXAS, AND OTHERWISE KNOWN AS 2404 MEMORIAL BOULEVARD (SH 27); SAID TRACT IS LOCATED WITHIN THE E-31 ZONING DISTRICT; BY PERMITTING SAID PROPERTY TO BE USED FOR "VEHICLE SALES-USED"; AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Kerrville, Texas, in compliance with the City Charter and the State law with reference to the granting of conditional use permits under Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, Texas, and the official zoning map adopted thereby, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Kerrville, Texas, finds that the health, safety and general welfare will be best served by the granting of a Conditional Use Permit, set out hereinafter, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. That a Conditional Use Permit is hereby granted to permit the property described below to be used for a Vehicle Sales-Used use, as that term is defined in Article 11-I-3 of the Code of Ordinances of the City of Kerrville, Texas, subject to the provisions of this Resolution and other applicable City ordinances and regulations:

An approximately 0.38 acre tract being part of Tract Number Two, out of the Samuel Wallace Survey No. 113, Abstract No. 347, within the City of Kerrville, Kerr County, Texas, and as more particularly described in Volume 637, Page 732 of the Kerr County Real Property Records,

hereafter referred to as "the Property."

SECTION TWO. If the Property is developed for Vehicle Sales-Used, the use and development of the Property shall be subject to the following conditions and regulations:

6. Property Development: The development and use of the Property shall be substantially similar in use, construction and building materials to the adjacent property located at 2410 Memorial Boulevard, as both properties are owned and operated together.

7. Parking: The design and number of parking spaces shall be in accordance with the regulations in effect at the time that individual building permits are submitted to the City. All required parking spaces shall be marked and kept available for customers and employees and shall not be used for the display of vehicle inventory. Storage and display of vehicles shall occur solely at ground level.
- A. Sidewalks: The construction of sidewalks shall be in accordance with the regulations in effect at the time building permits, if any, are submitted to the City.
- B. Signage:
 1. One free-standing sign is allowed on the property, subject to the following conditions:
 - a. sign area shall not be greater than forty-eight square feet (48.0’); and
 - b. sign shall not be higher than twenty-four feet (24.0’) above the adjacent street or driveway level, whichever is higher.
 2. No other signage shall be permitted.
- E. Landscaping Regulations: Landscaping shall be installed in accordance with the following regulations:
 1. Planting materials planted on the property shall be on the list of recommended plants set forth in the most recent edition of ***Recommended Plants for the Kerrville Area*** published by the City at the time of planting; provided, however, no variety of St. Augustine Grass (*Stenotaphrum secundatum* (Walter) Kuntze) may be planted at any location on the Property after the effective date of this Resolution.
 2. Landscaping shall be similar in material and design as the adjacent property located at 2410 Memorial Boulevard.
- F. Screening: Screening shall be in accordance with the regulations in effect at the time individual building permits are submitted to the City.
- G. Vehicle Repair and Maintenance: There shall be no repair or maintenance of any vehicles on the property at any time.

SECTION THREE. This Resolution and the Conditional Use Permit granted herein shall be subject to termination in accordance with Article 11-I-13 of the Code of Ordinances of the City of Kerrville, Texas.

PASSED AND APPROVED ON this the _____ day of _____, A.D.,
2006.

Eugene C. Smith, Mayor

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

**BUSINESS OF THE PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**

AGENDA ITEM: 5B **FOR AGENDA OF:** December 7, 2006

DESCRIPTION: **Conditional Use Permit (CUP) Request:** Consideration of a recommendation to the City Council for a CUP to allow a Retail Trade I use on 0.653 acres at 3000 Memorial Blvd.

APPLICANT(S): Edith Mandry

ATTACHMENT(S): Locator Map, Applicant Submittal, Resolution

Project Timeline

- October 23, 2006 – Application for subject CUP submitted to City.
- November 13, 2006 – development review Committee (DRC) process completed.
- November 17, 2006 – In accordance with statute and local law, notice of public hearing published in Kerr Daily Times and mailed to all property owners within 200 feet of subject property.
- **December 7, 2006 – Public hearing before Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.**
- January 9, 2007 – Public hearing before the City Council and consideration of a resolution approving the CUP.

CUP Process/Summary

- Per the Zoning Code, the “Retail Trade I” use in the E-31 zone requires approval of a CUP by the City Council. Retail Trade I allows the sale and/or rental of new and used merchandise.
- The purpose of District 31-E is to promote a mix of contractor businesses, business services, and personal services, all of which should be developed in a manner that enhances the quality of the Guadalupe River frontage, located across the highway from this district, and Schreiner College, which is on the west end of the district. Retail trade should be limited and constructed with a residential appearance.
- The applicant proposes, with the CUP request, to convert an existing residence into a new and used merchandise retail shop.
- The subject tract is in an older residential area, fronting Memorial Blvd (SH 27), which is transitioning to commercial.
- The applicants proposal requires by Zoning Code, a CUP for “Retail Trade I” which if approved allows a building of any architectural style with a floor area not to exceed 50,000 square feet and allowing the uses listed in the Zoning Code. This request represents the initial step in the property’s conversion from residential to “commercial”. Therefore, staff is proposing to modify the request to satisfy the intent of the applicant’s proposal and maintain the character of the adjacent properties. Staff is therefore recommending a CUP for Retail Trade allowing the sale of new and used merchandise, except used appliances.
- Per the Zoning Code, the P&Z and/or the City Council may impose additional requirements and conditions of approval as are needed to ensure that a use requested by a CUP is compatible and complementary to adjacent properties.

RECOMMENDED ACTION

1. Open the public hearing and receive comments; and
2. Recommend to the City Council approval of the CUP subject to the standards outlined in the resolution.



**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. -2006**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATELY 0.653 ACRE TRACT OF LAND, OUT OF THE SAMUEL WALLACE SURVEY NO. 112, WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, OTHERWISE KNOWN AS 3000 MEMORIAL BOULEVARD, AND LOCATED WITHIN THE E-31 ZONING DISTRICT; BY PERMITTING SAID PROPERTY TO BE USED FOR RETAIL TRADE-LIMITED PURPOSES, AND LIMITED TO THE SALE OR RENTAL OF NEW AND USED MERCHANDISE, EXCEPT USED APPLIANCES; AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS

WHEREAS, the Kerrville Planning and Zoning Commission and the Kerrville City Council, in compliance with the City Charter and the State law, with reference to the granting of conditional use permits under Title 11, Chapter I of the City's Code of Ordinances and the official zoning map adopted thereby, have given the requisite notices by mail, publication and otherwise; and after holding hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area, the Kerrville City Council finds that the health, safety and general welfare will be best served by the granting of a Conditional Use Permit, subject to the special conditions and restrictions as provided on the property described in Section One;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. That a Conditional Use Permit is granted to permit the property described below to be used for the purpose of Retail Trade-Limited, limited to the sale or rental of new and used merchandise, except used appliances, as is currently defined in Article 11-I-3 of the Code of Ordinances of the City of Kerrville, Texas, and subject to the provisions of this Resolution and other applicable City ordinances and regulations:

An approximately 0.448 acre tract out of the Samuel Wallace Survey No. 112, located within the City of Kerrville, Kerr County, Texas, as recorded in Volume 1306, Page 186 of the Real Property Records of Kerr County, Texas and a 0.202 acre tract out of the S.A. and A.P. R.R. right-of-way, located within the City of Kerrville, Kerr County, Texas, and recorded in Volume 167, Page 597 of the Real Property Records of Kerr County Texas,

hereafter referred to as "the Property."

SECTION TWO. In addition to the use and development regulations currently applicable to the Property, the Property may be used and developed for Retail Trade-Limited purposes, and limited to the sale or rental of new and used merchandise, except used appliances, and shall be subject to the following additional regulations:

- A. **Site Plan and Elevation Plan:** The development of the Property shall conform in all respects with the Site Plan, which may be found at **Exhibit A**, as attached hereto and incorporated herein by reference.
- B. **Signs:** The design, installation, location, operation and maintenance of signs shall comply with the City's ordinances regulating signs existing at the time of installation, subject to the following:
1. Only the following signs shall be permitted:
 - a. One free standing sign which:
 - (1) has a sign area of not greater than twenty-four (24) square feet;
 - (2) Does not exceed six (6) feet in height above the ground; and
 - (3) is not internally illuminated.
 - b. One wall sign or projecting sign which:
 - (1) has a sign area not greater than twenty-four (24) square feet; and
 - (2) is not internally illuminated.
- C. **Exterior Lighting:** Any outside pole lights shall be of a “shoe box” design and shall be located, shielded and aimed in such a manner so as not to allow light to directly fall onto adjacent properties or streets.
- D. **Landscaping Regulations:** The development of the property shall comply with the following landscaping regulations:
1. Landscaping areas shall be as shown on **Exhibit A**.
 2. All planting materials planted on the Property must be on the list of recommended plants set forth in the most recent edition of ***Recommended Plants for the Kerrville Area*** published by the City at the time of planting; provided, however, no variety of St. Augustine Grass (*Stenotaphrum secundatum (Walter) Kuntze*) may be planted at any location on the Property after the effective date of this Resolution.
 3. All required landscaping shall be maintained in a healthy, growing condition.
- E. **Outside Storage:** The outside storage of any materials, supplies, inventory and equipment, whether contained in cargo containers or other similar containers, is prohibited.
- F. **Trash and Other Solid Waste:** Solid waste collection bins and dumpsters shall be equipped with lids and fully screened with a wood and/or masonry screening fence not less than two feet (2.0') taller than the bins or dumpsters located within the area.

G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superceded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superceded, the provisions of this Resolution shall prevail.

H. **Parking:** All off-street parking shall be located on the side or in the rear of the building. The design and number of parking spaces shall be in accordance with the regulations in effect at the time building permits are submitted to the City.

I. **Visibility Triangles:** Vehicle transfers shall be established and maintained pursuant to existing City regulations for the entrance to the Property from State Highway 27 (Memorial Boulevard).

J. **Building Location and Orientation:** The location of each building shall be as indicated on **Exhibit A**.

K. **Sidewalks:** Pursuant to the City's ordinance, a waiver is hereby granted from the construction of a sidewalk.

SECTION THREE. This Resolution and the Conditional Use Permit granted herein shall be subject to termination in accordance with Article 11-I-13 of the Code of Ordinances of the City of Kerrville, Texas.

PASSED AND APPROVED ON this the _____ day of A.D., 2006.

Eugene C. Smith, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Brenda G. Craig, City Clerk

**BUSINESS OF THE PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**

AGENDA ITEM: 6A **FOR AGENDA OF:** December 7, 2006

DESCRIPTION: **Real Estate Acquisition and Disposition Policy** – Consideration of a recommendation to the City Council of the City's Real Estate Acquisition and Disposition Policy.

APPLICANT(S): City of Kerrville

ATTACHMENT(S): Draft Policy

History

- October 10, 2006 – City Council directs the Planning and Zoning Commission to review and comment on the proposed Real Estate Acquisition and Disposition Policy for the City.
- October 19, 2006 – Staff distributes copy of the proposed Real Estate Acquisition and Disposition Policy to the Planning and Zoning Commission.
- November 2, 2006 – The Planning and Zoning Commission discussed and commented on the draft Real Estate Acquisition and Disposition Policy.
- **December 7, 2006 – Discussion and recommendation to the City Council.**

Summary

Previously, the P&Z was given a draft copy of the City's Real Estate Acquisition and Disposition Policy. The purpose of the policy is to ensure that decisions regarding the acquisition and/or disposition of real estate reflect effective and efficient use of the City's current real property assets, a long-term vision and a balance of operational, financial, environmental and other relevant factors.

At the Commission's request, staff provided copies of acquisition and disposition policies from several cities including the policy from Seattle, Washington, which was used as the bases for the City's draft policy. The City Attorney also provided references from the City Charter and the Texas Local Government Code related to property acquisition and disposition.

At your November 2, 2006 meeting, the Commission discussed and made recommendations to the draft policy, the redlined copy attached reflects those recommendations.

RECOMMENDED ACTION

1. Review and discuss policy as presented by Staff, and
2. Recommend to Council approval of a Real Estate Acquisition and Disposition Policy.

REAL ESTATE ACQUISITION & DISPOSITION POLICY

PURPOSE:

~~It is the intent of the City to strategically utilize its inventory of Real Estate to further the City's goals while avoiding unnecessary acquisition of additional Real Estate.~~ It is the purpose of this policy to ensure that decisions regarding the acquisition and/or disposition of Real Estate reflect effective and efficient use of the City's current real property assets and/or real property rights, a long-term vision, and a balance of operational, financial, environmental, and other relevant factors. ~~Decisions regarding the acquisition or disposition of Real Estate should also consider plans and policies adopted by the City Council that provide guidance for the use of property located within identified geographic areas.~~

POLICY AND PROCEDURE:

1. *Preliminary Decision.* Proper planning activities involve the appropriate balance of fact finding, public input, and expertise under a defined scope to determine the needs of the City. In the course of such planning activities, certain acquisitions of real estate may need to be pursued. After a need is defined, a~~The~~ Department Director shall consult with the City Manager regarding the need to purchase Real Estate for a particular project or need. The City Manager will be responsible for consultant selection if applicable and in the absence of City Council's desire to appoint a consultant~~(if applicable)~~. In addition, special cases for acquisitions not included in specific projects (including when a property owner approaches the City) will be evaluated and handled individually as the situation dictates.
2. *Authorization.* Initial A~~a~~ authorization to acquire Real Estate is obtained at the time that a specific project is authorized by the City Council, which may occur upon the approval of the operating and capital budgets. For all acquisitions approved through budgeted projects, the City Manager will request specific approval to proceed with acquisition. Council approval will also be granted where real estate is being donated to the City. Cases outside of funded projects will be brought to City Council on a case-by-case basis for approval. The City Manager is authorized to approve the City's acceptance of easements, right-of-way and similar property interests pursuant to the City's application of its subdivision regulations and the requirement of dedication of various property interests for public use for those items with a value of less than \$25,000. ~~In addition, the City Manager is authorized to acquire a property interest whose value is less than \$25,000.~~
3. *Preliminary Assessment.* A general analysis is undertaken to determine the overall feasibility of the proposed acquisition. An assessment should be prepared reflecting as many relevant factors identified as deemed appropriate. These factors can be revisited or further expanded upon as the acquisition process continues. City

Council shall have the option of hiring a Real Estate consultant to assist with this process if it so chooses.

Specific items of importance include:

- Operational requirements of the City
- Current City property inventory and possible co-location opportunities
- Market conditions and trends
- Acquisition and transaction costs
- Projected future revenues and expenses
- Immediate and long-term needs, issues, and plans
- Funding mechanisms
- Legal requirements or constraints, including state and federal guidelines
- Environmental and other risk management issues
- Community impacts
- The City's Comprehensive Plan and other developmental guidelines
- Other City Council adopted plans
- Public input
- Tax Roll Impacts

All real estate acquisitions will undergo the proper due diligence to protect the City's immediate and long-term interests. This includes situations where the City is being donated real estate.

4. *Determination of Fair Market Value.* When identified Real Estate is determined to be necessary and appropriate for completion of a project, an estimation of fair market value shall be obtained for each tract or property interest. If probable value of a tract is less than \$10,000, the estimation of fair market value may be obtained from tax appraisal records or from informal analysis. The fair market value of any tract with a probable cost greater than \$10,000 or where acquisition involves the use of eminent domain shall be determined by an appraisal from a licensed independent real estate appraiser. The determination of fair market value shall be presented as part of a project update to the City Council or City Manager as appropriate when authorization to purchase Real Estate is granted. City Council will have the option of selecting the appraiser chosen if it so chooses.

5. *Negotiation/Offers.* The City Manager is allowed to enter into preliminary negotiations once City Council has given approval for a ~~project or~~ specific acquisition. The City Manager, however, has no authority to commit the City to a binding contract in excess of \$25,000. Except as otherwise delegated by ordinance, final decisions regarding the acquisition of Real Estate shall be made by the City Council. Any negotiations entered into by the City prior to final authorization by City Council, when needed, shall clearly communicate that the final decision is to be made by City Council. City Council will have the option of selecting a real estate broker to handle this process if it so chooses.

6. *Inspections.* A final inspection, if deemed appropriate by the City, will be conducted prior to final contract signings.

~~6.7.~~ Title Insurance and Reports. A ~~title~~ insurance policy and report ~~es~~ from a title insurance and abstract company shall be obtained for all Real Estate purchases. The report shall state an opinion of current record title ownership and the list of all liens or records filed against the property. Responsibility of the costs for these items will be negotiated between the buyer and seller.

8. *Deeds.* Deeds, Contracts of Sale and other documents needed to convey title or clear title may be prepared or reviewed by the City Attorney. Where the City Attorney does not prepare the documents, the Department Director or City Manager shall ensure that the City Attorney is informed of the pending purchase and has an opportunity to review all of the documents prior to the actual sale and closing. For documents involved in sales that are in excess of \$25,000, the City Council shall have the option of selecting a consultant real estate attorney if it so chooses.

~~8.9.~~ Taxes. All taxes that have accrued but which are not due should either be paid at closing or immediately thereafter. Once such payment is made to the ~~County Tax Collector~~ appropriate taxing entities, the Department Director or City Manager shall verify that the City ownership of the property is reflected on the current tax rolls.

~~9.10.~~ Filing and Recording of Documents. The City Clerk is responsible for verifying the filing of all deeds and other documents requiring filing in the County Clerk's Office. Documents filed at the County Clerk's Office shall have a return after filing address to the City Clerk's office and after filing, all documents shall be delivered to the City Clerk.

~~10.11.~~ Eminent Domain. Where it becomes necessary, the City Manager may consult with the City Attorney concerning eminent domain proceedings and decisions to employ experts needed in the process.

~~11.12.~~ Disposal of Real Property. ~~When the City Manager and/or City Council has determined that any Real Estate (real property, easements, ROW's) that is owned by the City is no longer needed, the property may be sold or disposed of in accordance with state law. The City may terminate the sale procedures used at any time and may reinitiate the same or different procedures at a later date.~~

~~12.13.~~ Applicability. These policies and procedures are intended as guidelines for the City. No express or implied rights or responsibilities are intended to be created for any party by these policies and procedures. Failure to comply with these policies and procedures is not intended to give any party the right to change, rescind, or delay any decision or transaction or to provide any claim for damages or other relief. These policies and procedures apply to all City departments and agencies, and to all acquisitions of Real Estate by the City, except as otherwise provided by ordinance, charter, or existing law.

13.14. *Legal Consistency and Compliance.* This Policy shall be interpreted and applied in accordance with federal, state and local law. In addition, any proposed Real Estate acquisition ~~shall~~should be consistent with the City's Comprehensive Plan and other applicable planning policies. The City Attorney should be consulted as needed in proposed acquisitions and at minimum, on the following matters: (a) compliance of proposed acquisition actions with local, state, and federal ordinances, statutes, regulations, plans, and policies; (b) the need for specific analyses, including applicable environmental studies; and (c) the form and substance of any proposed items Council adoption and transaction documents. These policies and procedures are not intended to supersede policies or procedures reflected in any ordinances or resolutions adopted by the City Council that specifically authorize the acquisition of Real Estate. In cases of inconsistency or conflict, the specific policies adopted by the City Council for the property in question shall prevail. Where superseding requirements are in effect, these policies and procedures shall remain applicable to the extent practicable.

Proposed Process for Real Estate Acquisitions

